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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,727	09/30/2003	Akira Takayanagi	488-00061	4009

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EXAMINER

HEWITT, JAMES M

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/674,727	<b>Applicant(s)</b> TAKAYANAGI ET AL.	
	<b>Examiner</b> James M. Hewitt	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 9/30/03, 1/16/04, 7/30/04, 2/28/05, 5/23/05.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 5, 8-10 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 11-14 is/are rejected.
- 7) ☒ Claim(s) 6-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/30/04, 2/28/05.</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of Species I (figures 1-13) in the reply filed on 5/23/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 5, 8-10 and 15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/23/05.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

The information disclosure statement filed 7/30/04 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the date of publication of each cited document has not been provided on the PTO-1449 form. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any

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missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

The information disclosure statement filed 2/28/05 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. The foreign patent document DE 197 13 446 A1 thus has not been considered.

### ***Specification***

The abstract of the disclosure is objected to because it should be edited for proper English. Correction is required. See MPEP § 608.01(b).

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

Note that throughout the specification, the terms "axial side", "axial end" and "opposite" are used incorrectly to describe relative location of the structure in the drawings being referenced.

### ***Claim Objections***

Claims 1-4, 6-7 and 11-14 are objected to because of the following informalities:

In claim 1 line 3, stating that the mating member is *joined* to the pipe is inaccurate. The mating member (hose) may be in communication with the pipe, but is not joined thereto.

In claim 1 lines 3-4, regarding the phrase "(to be joined with the pipe) on one axial side thereof", it is unclear as to what "thereof" modifies, and also whether "axial side" should rather be "axial end".

In claim 1 lines 5-6, regarding the phrase "of an opposite axial end thereof", it is unclear as to what "thereof" modifies, and also what "opposite" modifies and whether "opposite" is used correctly.

In claim 2 line 3, the phrase "while clipping the inserting side portion non-rotatably" is awkward and confusing.

In claim 3 line 3, it is unclear whether "opposite axial end portion" is being used correctly.

In claim 3 lines 4-5, it is unclear whether “an opposite axial end” and “an opposite axial end portion” are being used correctly.

In claim 3 lines 6-7, the phrase “while clipping the inserting side portion non-rotatably” is awkward and confusing.

In claim 11 line 3, stating that the mating member is *joined* to the pipe is inaccurate. The mating member (hose) may be in communication with the pipe, but is not joined thereto.

In claim 11 lines 3-4, regarding the phrase “(to be joined with the pipe) on one axial side thereof”, it is unclear as to what “thereof” modifies, and also whether “axial side” should rather be “axial end”.

In claim 11 line 4, it is unclear whether “opposite axial side” is being used correctly.

In claim 11 line 6, regarding the phrase “of an opposite axial end thereof”, it is unclear as to what “thereof” modifies, and also what “opposite” modifies and whether “opposite” is used correctly.

In claim 11 line 8, “in” should be replaced with “via”.

In claim 11 line 14, the phrase “by engagement non-rotatably” is awkward and confusing.

In claim 12 lines 3-4, regarding the phrase “(to be joined with a pipe) on one axial side thereof”, it is unclear as to what “thereof” modifies, and also whether “axial side” should rather be “axial end”.

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In claim 12 line 4, regarding the phrase "on an opposite axial side thereof", it is unclear as to what "thereof" modifies, and also what "opposite" modifies and whether "opposite" is used correctly.

In claim 12 line 6, regarding the phrase "of an opposite axial end thereof", it is unclear as to what "thereof" modifies, and also what "opposite" modifies and whether "opposite" is used correctly.

In claim 12 line 8, "in" should be replaced with "via".

In claim 12 line 13, the phrase "by engagement non-rotatably" is awkward and confusing.

In claim 13 lines 3-4, regarding the phrase "(to be joined with a pipe) on one axial side thereof", it is unclear as to what "thereof" modifies, and also whether "axial side" should rather be "axial end".

In claim 13 lines 5-6, regarding the phrase "of an opposite axial end thereof", it is unclear as to what "thereof" modifies, and also what "opposite" modifies and whether "opposite" is used correctly.

In claim 13 line 7, shouldn't the phrase "a pipe and a connector" be "the pipe and the connector"?

In claim 14 lines 4-5, the phrase "or in the connector housing in non-rotatably" is awkward and confusing.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3 and 6-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3 line 2, the pipe connecting portion is said to be "formed in C-shape or C-shape in cross-section". The use of "or" in this instance renders the claim indefinite as the claim scope is indeterminable. It seems as if Applicant is attempting to say convey the same meaning in two alternatives, yet in this instance each alternative is different from the other. The examiner suggests removing one of "C-shape" or "or C-shape in cross-section".

In claim 6 line 2, the pipe connecting portion is said to be "formed in C-shape or C-shape in cross-section". The use of "or" in this instance renders the claim indefinite as the claim scope is indeterminable. It seems as if Applicant is attempting to say convey the same meaning in two alternatives, yet in this instance each alternative is different from the other. The examiner suggests removing one of "C-shape" or "or C-shape in cross-section".

In claim 6 line 4, the recitation "a proper circumferential range" is indefinite as "proper" is a subjective or relative term.

***Claim Rejections - 35 USC § 102***



The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 and 13-14, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Bartholomew (US 5,931,509).

Bartholomew discloses an anti-rotation device for a pipe (12) and a connector (14), the connector having a connector housing provided with a connecting portion for a mating member, the pipe including an inserting side portion of straight tubular shape inserted into the connector housing, the device comprising: a pipe connecting portion (16) to be clipped to the inserting side portion of the pipe in anti-rotating relation and formed in C-shape or C-shape in cross-section and configured to be pressed against an inner surface of the connector housing so as to be narrowed in diameter on insertion through the opening, and a connector connecting portion (e.g. 78A, 78B) to be connected to the connector in anti-rotating relation, the connector connecting portion being constructed on or integrally with the pipe connecting portion; elastic material (seals, etc.) formed between the pipe connecting portion and the pipe; the housing including a protrusion/recess that engages with the connector connecting portion (see Figure 2).

Claims 1-2, 4 and 13-14, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Ooi et al (US 2002/0163183 A1).

Ooi et al discloses an anti-rotation device for a pipe and a connector, the connector having a connector housing provided with a connecting portion (13) for a mating member (5), the pipe including an inserting side portion of straight tubular shape inserted into the connector housing (see Figure 1), the device comprising: a pipe connecting portion (18) to be clipped to the inserting side portion of the pipe in anti-rotating relation and formed in C-shape or C-shape in cross-section and configured to be pressed against an inner surface of the connector housing so as to be narrowed in diameter on insertion through the opening, and a connector connecting portion (30) to be connected to the connector in anti-rotating relation, the connector connecting portion being constructed on or integrally with the pipe connecting portion; elastic material (seals, etc.) formed between the pipe connecting portion and the pipe; the housing including a protrusion/recess that engages with the connector connecting portion (see Figures 1-3).

Claims 1-2, 4 and 13-14, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Inoue (US 6,860,515).

Inoue discloses an anti-rotation device for a pipe and a connector, the connector having a connector housing (see Figure 1) provided with a connecting portion for a mating member, the pipe including an inserting side portion of straight tubular shape inserted into the connector housing (see Figure 1), the device comprising: a pipe

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connecting portion (33) to be clipped to the inserting side portion of the pipe in anti-rotating relation and formed in C-shape or C-shape in cross-section and configured to be pressed against an inner surface of the connector housing so as to be narrowed in diameter on insertion through the opening, and a connector connecting portion (61) to be connected to the connector in anti-rotating relation, the connector connecting portion being constructed on or integrally with the pipe connecting portion; elastic material (seals, etc.) formed between the pipe connecting portion and the pipe; the housing including a protrusion/recess that engages with the connector connecting portion (see Figure 4).

Claims 1-4 and 11-14, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Takayanagi (US 2003/0218334 A1).

Takayanagi discloses an anti-rotation device for a pipe and a connector, the connector having a connector housing (3) provided with a connecting portion for a mating member, the pipe including an inserting side portion of straight tubular shape inserted into the connector housing, the device comprising: a pipe connecting portion (95) to be clipped to the inserting side portion of the pipe in anti-rotating relation and formed in C-shape or C-shape in cross-section and configured to be pressed against an inner surface of the connector housing so as to be narrowed in diameter on insertion through the opening, a retainer holding portion holding a retainer (5), and a connector connecting portion (107) to be connected to the connector in anti-rotating relation, the connector connecting portion being constructed on or integrally with the pipe connecting

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portion; elastic material (seals, etc.) formed between the pipe connecting portion and the pipe; the housing including a protrusion/recess that engages with the connector connecting portion (see Figures 6, 12, 15).

Note that in the above rejections, structure that is connected to another structure such that rotation is precluded in one direction or about one axis is considered sufficient to meet the limitation "connected...in anti-rotating relation". In other words, the limitation "connected...in anti-rotating relation" has not been considered to require no rotation in all directions or about all axes.

#### ***Allowable Subject Matter***

Claims 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Note that the allowability of claims 6 and 7 is also contingent upon overcoming the above-noted objections to claims 1 and 2.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M. Hewitt whose telephone number is 571-272-7084.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**JAMES M. HEWITT**  
**PRIMARY EXAMINER**